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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,601

09/29/2003

Yousuke Yoneda

1419.1061C

8535

21171 7590 08/13/2007  
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EXAMINER

HYLINSKI, ALYSSA MARIE

ART UNIT

PAPER NUMBER

3711

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/671,601	<b>Applicant(s)</b> YONEDA, YOUSUKE	
	<b>Examiner</b> Alyssa M. Hylinski	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-8, 16, 21 and 23-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 16, 21 and 23-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/27/07(2), 5/14/07</u>                                       | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 4/27/07 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6, 7, 16, 21, 23-25, 27-31, 33-37 and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato (1-172894), Paquette (4647067) and Gillitzer (24735149). Minato discloses a suspension for a running toy (page 1 paragraph 2) having first and second turning members (23,24), which turn first and second wheels (27,28) about first and second vertical shafts (23b, 24b) movably received by a chassis or frame member (20, 29) of the toy (Fig. 3). A member (34) connects the first and second turning members and forms a turning device (page 9 paragraph 2). A leaf spring (36) located on top of the chassis has side portions that contact upper portions of the first and second shafts as they project from the top of the chassis (Fig. 2) and subjects them to a downward biasing force caused by elastically

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deforming the leaf spring (page 11 second paragraph). The suspension system is for a remote control toy car (page 1 paragraph 2). The leaf spring further comprises a projecting portion or shaft (37) at a middle portion thereof formed (Fig. 3) at which the leaf spring is held on the chassis by means of holes formed by loops in the frame (Fig. 2). The shaft and leaf spring are formed as a unitary member (Fig. 3). The suspension system allows either wheel to move in a vertical direction while being biased by the biasing member or leaf spring (Fig. 4b). Minato discloses the basic inventive concept, substantially as claimed, with the exception of the chassis having a recess portion in which the biasing member or leaf spring is held. Paquette discloses a vehicle suspension system wherein a cleft or recess in the top of a frame of the vehicle is configured to be able to detachably retain an element (37) of the suspension system having a shaft (38) associated therewith (Figs. 8,9 & 13). It would have been obvious to one of ordinary skill in the art from the teaching of Paquette to support a suspension element having a shaft within a recess or cleft in a frame in order to securely attach the element thereto in a stable and desired configuration. Furthermore, since Paquette discloses the use of a frame or chassis recess to help support a suspension element being an art-recognized equivalent to the retention means as disclosed by Minato, one of ordinary skill in the art would have found it obvious to substitute one for the other. Gillitzer discloses a portion of a vehicle chassis (32) having a recess therein in the form of a cleft created by a hollow located between protuberances of the frame (column 3 lines 26-30) for supporting or attaching a leaf spring (31) capable of being detached to the top of the chassis at a middle portion thereof to form a suspension system for a

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vehicle (Figs. 2 & 3). It would have been obvious to one of ordinary skill in the art from the teaching of Gillitzer to support a leaf spring within a recess in a frame in order to securely attach the spring thereto in a stable and desired configuration for use in the suspension system of a vehicle.

4. Claims 8, 26, 32 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato, Paquette, Gillitzer and Perryman (GB 1095490). Minato, Paquette and Gillitzer disclose the basic inventive concept substantially as claimed with the exception of the leaf spring being made of metal or plastic. Perryman discloses a leaf spring used in the suspension system of a toy car made of plastic or steel (page 2 lines 122-129). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Perryman to use metal or plastic in a leaf spring since it is elastically deformable and usable as a biasing member. Furthermore, the mere selection of known materials such as metal and plastic on the basis of suitability for the intended use would be entirely obvious. See in re Leshin, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one of ordinary skill in the art to provide Minato and Balthazor with metal or plastic in order to use known materials suitable for the intended use.

5. Claims 45-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato, Paquette, Gillitzer and Booher (4893832). The references disclose the basic inventive concept as described above, with the exception of the leaf spring being configured to have one side of the leaf spring bend in response to one wheel being moved up and allowing both side portions to bend if both wheels are moved up. Booher

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discloses a suspension for a vehicle having a leaf spring configured to allow either one side or both sides to bend in response to movement of the wheels (Fig. 7). It would have been obvious to one of ordinary skill in the art from the teaching of Booher to configure the leaf spring in this way in order to vary the characteristics of the suspension system as desired (column 4 lines 56-60). Furthermore, since Booher discloses a leaf spring configuration usable in a suspension system for a vehicle that would be an art-recognized equivalent to the leaf spring as disclosed by the references, one of ordinary skill in the art would have found it obvious to substitute one for the other.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-3, 6-8, 16, 21 and 23-50 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMH



EUGENE KIM  
SUPERVISORY PATENT EXAMINER